

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

**JESSICA JONES, et al.,**

Plaintiffs,

v.

**VARSITY BRANDS, LLC, et al.**

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

**JURY DEMAND**

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**PLAINTIFFS' MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF MOTION  
FOR LEAVE TO TAKE DEPOSITIONS OF DEFENDANTS CHARLESBANK AND  
BAIN**

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Plaintiffs Jessica Jones and Christina Lorenzen (Plaintiffs”), by and through their undersigned counsel, hereby file this motion for leave to file a reply brief in support of Plaintiffs’ Motion for Leave to Take Depositions of Defendants Charlesbank and Bain (“Motion”), pursuant to Federal Rules of Civil Procedure 26 and 30 and Local Rule 7.2(c). Plaintiffs filed their Motion on March 28, 2022. ECF No. 227. Defendants responded in opposition on April 5, 2022 (the “Opposition”). ECF No. 244.

In their Opposition, Defendants argue that the depositions Plaintiffs seek are unnecessary because “any legitimate need for deposition testimony relating to cheerleading is well covered by the depositions already taken and to be taken in this case.” Opposition at 1 (PageID 4656). This is incorrect and requires a response. Plaintiffs seek Bain and Charlesbank’s testimony regarding their alleged control over and active participation in Defendants’ scheme to acquire, enhance, and profit from Varsity’s monopoly power in the relevant markets, including internal

deliberations. Only Bain and Charlesbank employees can provide this testimony.

Defendants also state that Plaintiffs' claims are "based on [Bain and Charlesbank's] supposed vicarious liability for Varsity's conduct." *Id.* This warrants a response from Plaintiffs. As noted above, Plaintiffs allege Bain and Charlesbank's active participation in the illicit monopolization scheme, not only liability as owners and those who controlled the various Varsity Brands and Varsity-owned entity boards.

Defendants assert that because the Court dismissed claims against Bain and Charlesbank in *American Spirit and Cheer Essentials, Inc. v. Varsity Brands, LLC*, No. 2:20-cv-02782-SHL-tmp, the Court is expected to do so here. *Id.* But *American Spirit*, while coordinated for purposes of discovery, contains separate allegations that are distinguishable from those in this action, making Defendants' insinuation that the Court can simply follow its ruling in *American Spirit* inapposite. Indeed, as the Court has noted, "each of the three cases is brought on behalf of largely non-overlapping proposed classes of persons and entities whose interests may come into conflict, and who may need or desire to take different positions, and thus must not be consolidated." Order Establishing Plaintiffs' Discovery Coordination Committee, ECF No. 45, at 4 (PageID 202). Moreover, Bain and Charlesbank only produced the majority of their documents on April 1, 2022, after Plaintiffs filed their Motion. Plaintiffs should have the opportunity to update their arguments based on those new productions.

To make the record clear, a reply is warranted here. For that reason, Plaintiffs seek leave to file a short reply brief by April 8, 2022.

Dated: April 6, 2022

Respectfully submitted,

By: /s/ Joseph R. Saveri  
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**CERTIFICATE OF CONSULTATION**

I hereby certify, pursuant to Fed. R. Civ. P. 26(c)(1) and Local Rule 7.2(a)(1)(B), that on April 6, 2022, Kevin Rayhill emailed counsel for Defendants on behalf of Plaintiffs Jessica Jones and Christina Lorenzen to advise them that Plaintiffs intended to file a motion seeking the relief set out above, and that given the need for expedited resolution of this matter, Plaintiffs intend to file by April 8th. At this time, I have received no reply from Defendants.

/s/ Joseph R. Saveri

Joseph R. Saveri

**CERTIFICATE OF SERVICE**

I hereby certify that on April 6, 2022, I served a copy of the foregoing document via the Court's ECF system, effecting service on all interested parties.

/s/ Joseph R. Saveri

Joseph R. Saveri